

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

HENRY JAMES HOLMES,

Plaintiff

v.

JOHN DOE, *Unknown Bus Driver for
Port Authority, et al.*,

Defendants.

No. 2:22-CV-01342

(Chief Judge Brann)¹

(Magistrate Judge Carlson)

ORDER

JULY 31, 2023

Henry James Holmes filed this complaint alleging that Defendants violated his rights under the Americans with Disabilities Act.² On July 11, 2023, Magistrate Judge Martin C. Carlson issued a Report and Recommendation recommending that this Court dismiss the complaint for failure to prosecute.³ No timely objections were filed to this Report and Recommendation.

Where no objection is made to a report and recommendation, this Court will review the recommendation only for clear error.⁴ Regardless of whether objections

¹ An Article III Judge in the United States District Court for the Middle District of Pennsylvania sitting in the Western District of Pennsylvania by designation of Chief Judge Michael A. Chagares of the United States Court of Appeals for the Third Circuit. Doc. 15.

² Doc. 5.

³ Doc. 22.

⁴ Fed. R. Civ. P. 72(b), advisory committee notes; *see Henderson v. Carlson*, 812 F.2d 874, 878 (3d Cir. 1987) (explaining that court should in some manner review recommendations regardless of whether objections were filed).

are made, district courts may accept, reject, or modify—in whole or in part—the findings or recommendations made by the magistrate judge.⁵ Upon review of the record, the Court finds no error in Magistrate Judge Carlson’s conclusion that Holmes’ complaint should be dismissed for failure to prosecute. Consequently, **IT IS HEREBY ORDERED** that:

1. Magistrate Judge Martin C. Carlson’s Report and Recommendation (Doc. 22) is **ADOPTED**;
2. Holmes’ complaint is **DISMISSED** for failure to prosecute;
3. Magistrate Judge Martin C. Carlson’s earlier Report and Recommendation (Doc. 18) is **REJECTED** as moot; and
4. The Clerk of Court is directed to **CLOSE** this case.

BY THE COURT:

s/ Matthew W. Brann

Matthew W. Brann
Chief United States District Judge,
Specially Presiding

⁵ 28 U.S.C. § 636(b)(1); Local Rule 72.31.